



To whom it may concern:

This is notice of a debt owed to the UNITED STATES GOVERNMENT.

The DEPARTMENT OF VETERANS AFFAIRS ("VA") has asserted the right to recover the reasonable charges of care or services provided to an injured party that was injured "incident to the individual's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and services provided to the individual by reason of the disability." 38 U.S.C. § 1729(a)(2)(A).

VA is entitled to recover "to the extent that the recipient or provider of the care or services would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished or paid for by a department or agency of the United States." 38 U.S.C. § 1729(a)(1). This means that VA can recover for any injury that is work-related. Note that extent refers to the scope of the treatment provided; it limits VA's recovery to work-related injuries. **It is not a limitation on the amount VA may recover.**

The amount to which VA is entitled is calculated according to regulations prescribed by the Secretary. 38 U.S.C. § 1729(c)(2)(A). These regulations provide that "reasonable charges for care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Secretary it would pay for the care or services if provided by facilities (other than facilities of departments or agencies of the United States) in the same geographic area." 38 U.S.C. § 1729(c)(2)(B). In short, care provided to an injured party under a health-plan contract may pay reasonable and customary rates for the locality in which treatment was provided.

However, this does not apply to recoveries covered under a workers' compensation law or plan.

A health-plan contract is defined as "an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid." 38 U.S.C. § 1729(i)(1)(A). However, several items are expressly excluded from the definition of health-plan contract, including "a workers' compensation law or plan." 38 U.S.C. § 1729(i)(1)(B)(iii).

This means that a workers' compensation law or plan is not a health-plan contract under 38 U.S.C. § 1729, and as such the ability to pay the amount it would pay for care or services furnished by providers other than entities of the United States for the same care or services in the same geographic area is not extended to such laws or plans. **Instead, workers' compensation laws or plans must pay at the rates generated according to 38 C.F.R. § 17.101 et seq.**

VA cannot be required to prepare billing on a specific format. VA generates a Bill Ledger in accordance with 38 C.F.R. § 17.101. All information used to generate VA charges is included on this ledger.

State law is expressly preempted by Congress, as are the terms of any contract or agreement. 38 U.S.C. § 1729(f). The Supremacy Clause of the Constitution declares that federal law "shall be the



supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. CONST. Art. VI.

Settlement with the injured party will not preclude VA from recovery. The only way for a third-party payer to satisfy its obligation under this section is to pay the VA facility or other authorized representative of the United States. 38 C.F.R. § 17.106(c).

YOU ARE NOW ON NOTICE THAT YOU OWE A DEBT TO THE UNITED STATES. Failure to pay this debt may result in the filing of an action for recovery under the False Claims Act for "knowingly and improperly avoid[ing] or decreas[ing] an obligation to pay or transmit money... to the Government." 31 U.S.C. § 3729(a)(1)(G). Such an action could result in "a civil penalty of not less than \$5,000 and not more than \$10,000... plus 3 times the amount of damages which the Government sustains because of the act of that person." 31 U.S.C. § 3729(a)(1).

In order to avoid potential escalation, payment must be remitted within 30 days of receipt of this notice. Check must state **IDENTIFICATION TITLE IN MEMO SECTION** to ensure proper processing. Make your check payable to the **DEPARTMENT OF VETERANS AFFAIRS** in the amount noted above/attached and mail to:

**North Central CPAC
Attn: Cash Management
P.O. Box 5117
Madison, WI 53705**

Bianca Hall, Attorney / Revenue Law Group
Office of General Counsel / US Department of Veterans Affairs
Office: (202) 430-0022 Email: Bianca.Hall@VA.gov

Direct all other correspondence relating to this matter to Case Manager:

KAIJA SLAUKSTINS-BYRKIT, *Paralegal Specialist*
Department of Veterans Affairs | Revenue Law Group
Phone: (202) 815-9324 | Facsimile: (202) 495-5043